



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[EPA-R09-OAR-2019-0165; FRL-9996-17-Region 9]

Air Quality Implementation Plan; California; Yolo-Solano Air Quality Management

District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing action on a revision to the Yolo-Solano Air Quality Management District (YSAQMD or “the District”) portion of the California State Implementation Plan (SIP). We are proposing to approve a rule governing issuance of permits for stationary sources, including review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or “the Act”). Specifically, the revision pertains to YSAQMD Rule 3.25, “Federal New Source Review for New and Modified Major PM_{2.5} Sources.” We are taking comments on this proposal and a final action will follow.

DATES: Written comments must be received on or before **[Insert date 30 days after publication in the FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0165 at <https://www.regulations.gov>, or via email to R9AirPermits@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically

any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Maggie Waldon, EPA Region IX, 75

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SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to the EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date it was adopted by YSAQMD and submitted by the California Air Resources Board (CARB), the governor's designee for California SIP submittals. Rule 3.25 contains the District's Nonattainment New Source Review (NNSR) permit requirements applicable to new and modified major sources emitting fine particulate matter (PM_{2.5}) and PM_{2.5} precursors.

Table 1 Submitted Rule

| Rule # | Rule Title | Adopted | Submitted |
|--------|--|----------|-----------|
| 3.25 | Federal New Source Review for New and Modified Major PM _{2.5} Sources | 05/15/19 | 06/04/19 |

On June 10, 2019, the EPA notified CARB that its June 4, 2019 submittal of Rule 3.25 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review. The submittal includes evidence of public notice and adoption of the regulation.

B. What is the purpose of the submitted rule?

For areas designated as nonattainment for one or more National Ambient Air Quality Standards (NAAQS), the SIP must include preconstruction permit requirements for new or modified major stationary sources of such nonattainment pollutant(s), commonly referred to as Nonattainment New Source Review (NNSR). YSAQMD Rule 3.25 addresses statutory and regulatory requirements for NNSR permits for major sources of PM_{2.5} and PM_{2.5} precursors.

II. The EPA's Evaluation

A. What is the background for today's proposal?

On November 13, 2009, the EPA designated the Sacramento Valley Air Basin, including the eastern portions of Yolo and Solano counties, as nonattainment for the 2006 PM_{2.5} NAAQS (the Sacramento PM_{2.5} nonattainment area).¹ Because the Sacramento PM_{2.5} nonattainment area includes areas under YSAQMD's jurisdiction, the District was required to submit, by December 31, 2014, a SIP revision to address NNSR requirements for major sources of PM_{2.5} and PM_{2.5} precursors. On June 8, 2016, the EPA published in the Federal Register a finding of failure to submit the required SIP revision.² On August 16, 2017, YSAQMD submitted Rule 3.25 "New Source Review for New and Modified Major PM_{2.5} Sources," as adopted on July 12, 2017, and on May 16, 2018, the EPA notified the state that its August 16, 2017 submittal of Rule 3.25 addressed the EPA's finding of failure to submit.³ As noted in Table 1, today's action involves a newly revised version of Rule 3.25, adopted on May 15, 2019 and submitted on June 5, 2019.

B. How is the EPA evaluating the rule?

The EPA reviewed YSAQMD Rule 3.25 for compliance with CAA requirements for: (1) SIPs in general as set forth in CAA section 110(a)(2); (2) SIP revisions as set forth in CAA section 110(l);⁴ (3) stationary source preconstruction permitting programs in CAA Part D, including section 172 and 173(a) through (c) of subpart 1, and subpart 4; and (4) requirements related to the review and modification of major sources in 40 CFR 51.160 - 51.165 including requirements set forth in the EPA's rule "Fine Particulate Matter National Ambient Air Quality

¹ 7 FR 65346, October 26, 2012.

² 81 FR 36803, June 8, 2016.

³ Letter from Elizabeth J. Adams, U.S. EPA Region 9, to Richard Corey, CARB, dated May 16, 2018.

⁴ CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by States to EPA and prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

Standards: State Implementation Plan Requirements” (“2016 Implementation Rule”).⁵ The 2016 Implementation Rule requires areas classified as nonattainment for any PM_{2.5} NAAQS to comply with CAA section 189(e) requirements for control of major stationary sources of PM₁₀ and PM_{2.5} precursors.⁶ To implement requirements applicable to major sources of PM_{2.5}, the 2016 Implementation Rule also amended 40 CFR 51.165 definitions of the terms (1) Regulated NSR Pollutant; (2) Major Stationary Source; and (3) Significant. Rule 3.25 must be consistent with these recent regulatory requirements.

C. Does the rule meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. Based on our review of the public process documentation included in the August 16, 2017 submittal, we find that YSAQMD has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to substantive requirements found in CAA sections 172, 173 and 189(e) and 40 CFR 51.160 - 51.165, we have evaluated YSAQMD Rule 3.25 in accordance with the CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act. We find that Rule 3.25 satisfies the requirements for a PM_{2.5} NNSR permit program.

Our Technical Support Document, which can be found in the docket for this rule, contains a more detailed discussion of our evaluation of Rule 3.25.

III. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted rule because it fulfills all relevant requirements. We have concluded that our approval

⁵ 81 FR 58010, (August 24, 2016).

⁶ 40 CFR 51.165(a)(13); 81 FR 58106-58116 (August 24, 2016).

of the submitted rule would comply with CAA sections 110(a)(2), 172, 173 and 189(e), and 40 CFR 51.160 - 51.165.

In support of this proposed action, we have concluded that our action would comply with section 110(l) of the Act because approval of Rule 3.25 will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA applicable requirement. If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.220 (Identification of Plan-in part).

We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the YSAQMD rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, this document available electronically through <https://www.regulations.gov> and in hard copy at the EPA Region IX Office (please contact the person identified in the **“FOR FURTHER INFORMATION CONTACT”** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose

additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: June 25, 2019.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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